



Reprinted
February 23, 2005

SENATE BILL No. 263

DIGEST OF SB 263 (Updated February 22, 2005 4:20 pm - DI 52)

Citations Affected: IC 16-20; IC 16-22.

Synopsis: Local enforcement of open burning restrictions. If the county fiscal body adopts an ordinance approving a complaint procedure, allows the filing of a complaint with a local health officer alleging that a person is conducting illegal open burning that results in a health hazard. Requires the local health department to conduct a hearing and authorizes the department to order that the burning cease.

Effective: July 1, 2005.

Alting, Gard

January 6, 2005, read first time and referred to Committee on Energy and Environmental Affairs.

January 25, 2005, amended, reported favorably — Do Pass.

February 22, 2005, read second time, amended, ordered engrossed.

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SB 263—LS 7093/DI 52+



First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 263

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 16-20-1-25.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2005]: **Sec. 25.5. (a) This section applies in a**
4 **county only if the fiscal body of the county adopts an ordinance to**
5 **apply this section.**
6 **(b) A person may file a written complaint with a local health**
7 **officer alleging that:**
8 **(1) a person in the jurisdiction served by the health officer is**
9 **in violation of IC 13-17-9; and**
10 **(2) the violation results in a health hazard to:**
11 **(A) the person who files the complaint or a member of the**
12 **person's household; or**
13 **(B) an employee of the person who files the complaint.**
14 **(c) Upon receipt of a written complaint under subsection (b), the**
15 **local health officer shall schedule a hearing on the complaint by the**
16 **local health department.**
17 **(d) The local health department shall:**

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(1) give written notice of the hearing scheduled under subsection (c) to:

(A) the person that files the complaint; and

(B) the person against whom the complaint is filed;

(2) hold the hearing, providing an opportunity for each person referred to in subdivision (1) to be heard and present evidence;

(3) determine the merits of the complaint;

(4) give written notice of the determination under subdivision (3) to each person referred to in subdivision (1); and

(5) if the local health department determines that:

(A) the person against whom the complaint is filed is in violation of IC 13-17-9; and

(B) the violation results in a health hazard to a person described in subsection (b)(2);

issue to the person against whom the complaint is filed a written order to cease the actions that are in violation of IC 13-17-9.

(e) An order issued under subsection (d)(5) is subject to appeal in the circuit or superior court.

(f) The local health officer or local board of health may enforce an order issued under subsection (d)(5) under section 26 of this chapter.

SECTION 2. IC 16-22-8-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 31. (a) The director of the division of public health has the powers, functions, and duties of and is subject to the laws relating to a local health officer. The director shall perform other duties prescribed by the board or authorized by a town or city within the county. Valid orders of the director of the division of public health may be enforced in a court with jurisdiction by injunction. A change of venue from the county may not be had for orders issued under this section.

(b) This subsection applies in a county only if the fiscal body of the county adopts an ordinance to apply this subsection. The director of the division of public health has the powers, functions, and duties of a local health officer under IC 16-20-1-25.5.

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COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred Senate Bill No. 263, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 3, after "file a" insert "**written**".

Page 1, line 11, after "of a" insert "**written**".

and when so amended that said bill do pass.

(Reference is to SB 263 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 6, Nays 2.

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SENATE MOTION

Madam President: I move that Senator Gard be added as second author of Senate Bill 263.

ALTING

SENATE MOTION

Madam President: I move that Senate Bill 263 be amended to read as follows:

Page 1, line 3, delete "A person may file a" and insert "**This section applies in a county only if the fiscal body of the county adopts an ordinance to apply this section.**

(b) A person may file a".

Page 1, line 11, delete "(b)" and insert "(c)".

Page 1, line 11, delete "(a)," and insert "(b),".

Page 1, line 14, delete "(c)" and insert "(d)".

Page 1, line 16, delete "(b)" and insert "(c)".

Page 2, line 12, delete "(a)(2);" and insert "(b)(2);".

Page 2, line 16, delete "(d)" and insert "(e)".

Page 2, line 16, delete "(c)(5)" and insert "(d)(5)".

Page 2, line 18, delete "(e)" and insert "(f)".

Page 2, line 19, delete "(c)(5)" and insert "(d)(5)".

Page 2, line 22, after "31." insert "(a)".

Page 2, line 24, delete ", including" and insert ".".

Page 2, line 25, delete "IC 16-20-1-25.5".

Page 2, after line 29, begin a new paragraph and insert:

"(b) This subsection applies in a county only if the fiscal body of the county adopts an ordinance to apply this subsection. The director of the division of public health has the powers, functions, and duties of a local health officer under IC 16-20-1-25.5".

(Reference is to SB 263 as printed January 26, 2005.)

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